Filed 10/20/09 In re I.M. CA2/7

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re I.M., a Person Coming Under the Juvenile Court Law.	B210494 (Los Angeles County Super. Ct. No. CK71671)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. CHASTITY B. et al., Defendants; MARLENE B. et al., Petitioners and Appellants.	

APPEAL from an order of the Superior Court of Los Angeles County. Valerie Skeba, Referee. Affirmed.

Marlene B. and Randy B., in pro. per., for Petitioners and Appellants.

Office of the Los Angeles County Counsel, James M. Owens, Assistant County Counsel, and Judith A. Luby, Principal Deputy County Counsel, for Plaintiff and Respondent.

Marlene B., maternal grandmother of I.M., and Randy B., I.M.'s maternal uncle, have filed an appeal asserting that I.M. should have been placed with one of them. Of the issues raised in their briefs, the only cognizable and properly presented legal argument concerns the denial of their Welfare and Institutions Code[1] section 388 petitions seeking custody of I.H. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

When I.M. was a little more than one year old, Los Angeles County deputy sheriffs entered her family's home while executing a search warrant. According to the deputy sheriffs, the family resided in a back bedroom; when the deputies reached it, they found I.M.'s father, John M., sitting on the bed, holding I.M. as a shield. Several ounces of marijuana were found in the child's clothing closet, as well as digital scales. A glass pipe used for smoking methamphetamine was recovered from the toilet bowl. The deputies also recovered a stolen car at the residence, a car that both John M. and I.M.'s mother, Chastity B., admitted driving.

Chastity B. admitted that she had smoked marijuana in the prior few days; she initially denied using methamphetamine, then admitted that she had used methamphetamine weekly with John M. Three other adults living in the same residence acknowledged smoking and snorting methamphetamine in the home on a frequent basis. John M. admitted to selling methamphetamine recently and to snorting methamphetamine at home the prior week. John M. acknowledged that he had been using drugs for as long as he could remember; that in 1987 he had nearly overdosed on crack cocaine; and that he was currently on parole for drug or weapons charges.

The Department of Children and Family Services (DCFS) detained I.M. and filed a dependency petition alleging that I.M. fell within the jurisdiction of the juvenile court

[1] Unless otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

under section 300, subdivision (b) (failure to protect). Specifically, DCFS alleged that (1) I.M.'s parents created a detrimental home environment by selling drugs and by possessing several ounces of marijuana and drug paraphernalia consistent with the use and sale of drugs, all of which was accessible to I.M.; (2) I.M.'s mother, Chastity B., had a history of substance abuse and was a current user of methamphetamine and marijuana, rendering her incapable of caring for I.M. and endangering her physical and emotional health and safety, and she had also used drugs in the home and allowed others to do the same; and (3) John M. had a long history of substance abuse and drug-related criminal activity, currently used methamphetamine, used drugs in I.M.'s home, and permitted other known drug users to reside in and use drugs in that home.

When DCFS detained I.M., Chastity B. said that there were no suitable relatives for placement, and I.M. was placed in protective custody. Thereafter, Chastity B. contacted DCFS and requested that her mother, Marlene B., take I.M. DCFS contacted Marlene B. and explained the process to assess relatives for placement. According to DCFS, Marlene B. became agitated and responded, that she "'needed the baby, and there is nothing [the clinical social worker] will do to stop her from getting that child.'" Marlene B. denied having any history with DCFS, claiming that there had once been a misunderstanding involving a belief that she had hit her child. DCFS responded that it appeared that the family had extensive contact with DCFS, and Marlene B. stated, "'You can't let that get in the way of me getting this baby!'" Marlene B. denied ever being arrested and asserted that she did not believe that her daughter, Chastity B., was currently using drugs. She reported that Chastity B. had moved into her home.

At the time of the detention report, Marlene B. was contacting DCFS several times per day—as many as 10 times in one hour—demanding that I.M. be delivered to her immediately. She claimed to have been made the child's legal guardian by virtue of a notarized letter written by Chastity B., but was reluctant to show the letter to DCFS. DCFS encouraged Marlene B. to attend the detention hearing but did not recommend placement with Marlene B. due to "inappropriate phone calls, attempts to manipulate [the clinical social worker], non-credible and wavering statements about prior DCFS and

criminal history—which include[s a] drug-related conviction, as well as child cruelty charges—[Marlene B.'s] inability to protect the child from mother by allowing the mother to move into her home, and [Marlene B.'s] defense for the mother—stating she does not have a substance abuse problem."

At the detention hearing, the juvenile court ordered I.M.'s continued detention in shelter care. Counsel for Chastity B. requested that a pre-release investigation be performed on I.M.'s maternal uncle, 19-year-old Randy B. The court asked whether Randy B. lived with Marlene B., and Chastity B.'s counsel told the court that Marlene B. was in the home but that she was moving out. The court commented, "The grandmother is not an appropriate caretaker, at least at this time. And if they're going to live together, then the uncle is not going to get the child." Counsel reiterated that Marlene B. would vacate the home. The court ascertained that the home in question was Marlene B.'s home, and asked Marlene B. directly, "If you move out, how is the 19-year-old young man going to take care of the child?" She responded that she provided the family income and paid the bills. Randy B. told the court that he worked varying hours at a gas station, but that day care would care for I.M. when he was working. The court ordered the investigation of Randy B.

DCFS interviewed and investigated Randy B. and prepared a report to the juvenile court concerning the factors set forth by section 361.3 to be considered when a relative seeks placement of a child removed from parental custody. DCFS articulated numerous concerns about placing then 15-month-old I.M. in Randy B.'s custody and recommended that the child not be placed with him. Although Randy B. was clearly eager to take custody of I.M., DCFS observed that he was 19 years old, had no prior experience in child care, lacked support systems, was not working, and was entirely financially dependent on Marlene B. He had not watched I.M. on a regular basis, nor had he cared for any child regularly. A friend, he claimed, had given him "a couple of tips on how to care for a baby." DCFS believed that Randy B. had not been forthcoming with information he provided to DCFS concerning his drug history and about Marlene B.

Randy B.'s evasiveness with DCFS led the social worker to question his ability to follow DCFS's guidelines and court orders, including orders that he protect the child and keep her away from specified persons. Social workers with prior experience with the family expressed the belief that the family was "very manipulative and deceptive." From the amount of personal belongings left in what had been Marlene B.'s bedroom, it did not appear that Marlene B. had in fact moved out of the home. DCFS expressed doubts that Marlene B. had moved out of her own home to facilitate I.M.'s placement there, and feared that "she has not moved out and/or will play a large role in caring for this child without the Department's knowledge," particularly in light of Randy B.'s age, his economic dependence on his mother, and the fact that the home in question was Marlene B.'s residence. Accordingly, DCFS was concerned that if the child were placed with Randy B., she would likely be exposed extensively to Marlene B.

This anticipated exposure was problematic to DCFS for numerous reasons. Marlene B. had a significant DCFS history, including at least six prior referrals and cases involving Randy B. and Chastity B. as minor children. Contradicting her assertion that she had never been arrested, Marlene B. had two prior drug offenses that resulted in diversion programs; a misdemeanor conviction for disturbing the peace (Pen. Code, § 415, subd. (2)); and a charge of willful cruelty to a child (Pen. Code, § 273a, subd. (b)) with no disposition noted. Marlene B. was described as "aggressive, threatening, and difficult to work with," providing conflicting information to DCFS, denying her criminal history, and making inappropriate phone calls demanding custody of I.M. DCFS remained concerned that Marlene B. denied that Chastity B. was using drugs and that she had permitted Chastity B. to move back into Marlene B.'s home.

At the next court hearing, on February 26, 2008, questions arose as to whether the deficiencies identified in the pre-release report had been remedied. The court continued the matter to March 7 to permit additional investigation on the pre-release report on Randy B. On March 7, counsel stipulated to a continuance of the hearing to permit further investigation on the pre-release report, specifically the investigation of three non-relative family friends who were volunteering to live with Randy B. and assist in caring

for I.M. At that hearing, the court ordered monitored visitation for family members and authorized DCFS to place I.M. with any appropriate relative.

The question of placement could not be resolved at the next court hearing, on March 11, 2008, because the investigation of the family friends had not been completed and Live-Scan results had not been obtained. The court continued the matter to March 14, 2008, by which time a team decision-making conference had been held and the placement plan had apparently changed from placement with Randy B. to placement with one of the family friends, Ann Stacy. No investigation of her home had yet occurred. The court continued the matter to March 21 to permit that investigation.

On March 21, 2008, the court considered I.M.'s placement once more. The investigation of Ann Stacy had been negative, the court indicated, because in addition to some deficiencies at the home, "there seems to be some confusion as to whether she wants to take the child or not." Moreover, there was a locked room in Stacy's house to which investigators were not admitted; Stacy claimed not to have a key. The court said that the room had to be opened before the court would release I.M. to Stacy.

On March 24, 2008, a date already set for adjudication of the petition, Stacy's home had not yet been inspected. The court continued the adjudication to April 22. On April 22, Chastity B. waived the right to a hearing on the allegations in the dependency petition and submitted on amended language in the petition. The court set the dispositional hearing for May 22, 2008, and by that date the parties had agreed on dispositional orders that were then entered by the court. Among those orders was that I.M.'s placement was suitable.

At the June 2008 progress report hearing, Chastity B. had progressed to the point that the court considered returning I.M. to her custody. Chastity B. had been having unmonitored visits of eight hours, and requested that I.M. be placed in her custody. DCFS believed it to be too soon to release I.M. to her mother, but requested that visits continue to be liberalized. The juvenile court decided to permit overnight visits from Fridays to Sundays and set a hearing in 60 days to address the return of I.M. to her mother.

At the August 2008 hearing, Marlene B.'s interference in visitation was addressed by the court. The juvenile court expressed concern at Marlene B.'s attempts to make ex parte contact with the court, and at reports that she was being rude and aggressive to the foster parent to the point of making the mother cry. The fact that Chastity B. was living in Marlene B.'s home and the question of whether Marlene B. had really left the residence arose, and the court ordered that Marlene B. not be present at the house when I.M. was visiting. As the juvenile court put it, "So it's up to grandmother, you know. The Department has some concern about her, as do I. [¶] So if she's going to continue to be at the . . . house with this type of behavior, then, it's going to be unlikely that the Department is going to want to return the child home. [¶] So grandmother can either, you know, keep her distance and let us try to work with the mother, or she can interfere."

The court held a section 366.21, subdivision (e) review hearing on October 20, 2008. The court found by a preponderance of the evidence that the return of I.M. to her mother's custody would create a substantial risk of detriment to her physical and emotional health and safety. The juvenile court found that reasonable efforts had been made to reunite I.M. and her mother; that the conditions that originally justified jurisdiction over I.M. still existed; and that the child's placement was suitable. The court ordered that reunification services continue because there was a substantial probability that I.M. could be returned to Chastity B.'s custody by the time of the section 366.21, subdivision (f) hearing.

On December 22, 2008, the juvenile court continued the progress report hearing due to the appointment of new counsel for Chastity B. Also that day, the juvenile court denied without a hearing three section 388 petitions filed by Randy B. and Marlene B. seeking I.M.'s placement with them.

This appeal concerns four separately filed notices of appeal. On September 26, 2008, Marlene B. filed a notice of appeal concerning the juvenile court's August 27, 2008 orders limiting her contact with I.M. On December 22, 2008, Randy B. and Marlene B. each filed a notice of appeal concerning orders made by the juvenile court on October 20, 2008, and December 22, 2008. Marlene B.'s notice of appeal complained that she was

not being considered for placement. Randy B. asserted that he appealed orders under sections 360, 300, and 366.26, and that "DCFS had discretion to placing with a relative." On January 17, 2009, Randy B. filed a notice of appeal in which he appealed from the orders of the court on October 20, 2008; he characterized the order as "WIC 300" but offered no other detail as to the order or orders that aggrieved him.

DISCUSSION

I. Standing

Respondent argues that Randy B. and Marlene B. lack standing to appeal because they are not de facto parents but are I.M.'s maternal uncle and grandmother. As I.M.'s relatives, they have standing to seek appellate review of their requests for placement under section 361.3. (*Cesar V. v. Superior Court* (2001) 91 Cal.App.4th 1023, 1034-1035.) We therefore deny Respondent's motion to dismiss the appeal for lack of standing.

II. Attempt to Appeal Disposition Orders and Events Prior to Disposition

The main point of the appellate briefing is that Randy B. and Marlene B. complain that I.M. was not placed with them, and many of their complaints concern events occurring prior to the disposition. None of the notices of appeal at issue in this case concern orders made prior to August 2008. Randy B. and Marlene B.'s opportunity for appellate review of the dispositional and pre-disposition orders, including the placement decision, was by timely appeal of the judgment entered at disposition in May 2008. (*In re Eli F.* (1989) 212 Cal.App.3d 228, 233 ["In a case brought under section 300, the juvenile court's dispositional order is a judgment"].) Therefore, the parties' extensive allegations of a failure to adequately consider Randy B. and Marlene B. for placement at

and prior to the May 2008 disposition hearing, as well as their complaints about the detention process, are not cognizable on this appeal.

III. September 26, 2008 Appeal by Marlene B.

Marlene B. filed a notice of appeal concerning the juvenile court's August 27, 2008 order that Marlene B. was not to be at home while I.M. was present there for visits with Chastity B. Although Marlene B. does state in her opening brief that she challenges this order, she offers no argument to support her assertion that it was erroneous; instead, her brief is devoted to the relative placement preference and to complaints that she was excluded from hearings. "The juvenile court's judgment is presumed to be correct, and it is appellant's burden to affirmatively show error. [Citation.] To demonstrate error, appellant must present meaningful legal analysis supported by citations to authority and citations to facts in the record that support the claim of error. [Citations.] When a point is asserted without argument and authority for the proposition, 'it is deemed to be without foundation and requires no discussion by the reviewing court.' [Citations.]" (*In re S.C.* (2006) 138 Cal.App.4th 396, 408.) As Marlene B. has not made any argument with respect to this order on appeal, she has failed to demonstrate any error by the juvenile court here.

IV. December 22, 2008 Appeals by Marlene B. and Randy B.

The December 22, 2008 notices of appeal filed by Marlene B. and Randy B. specify hearing dates of October 20, 2008, and December 22, 2008. Randy B.'s notice of appeal states that he appeals findings concerning "[p]lacing child in a permanent home," and includes the statement, "DCFS had discretion to placing with a relative." Marlene B. asserted as the findings she appeals, "Court ordered DCFS to evaluate other relatives. I am a relative and have appeared at all of the child's court hearings. And visits [] consist[e]ntly with the child. I have been waiting to be considered since 2/19/08."

We have reviewed the documents in the record pertaining to the hearings on October 20, 2008, and December 22, 2008. The October 20, 2008 hearing was a review hearing under section 366.21, subdivision (e), and there were also two section 388 petitions before the court—one filed by DCFS, the other by Chastity B. The juvenile court granted DCFS's section 388 petition requesting that Chastity B.'s visits be monitored, denied Chastity B.'s petition seeking placement of I.M. in her home, concluded that there was a substantial probability that the child could be returned to I.M. by the permanency hearing date, and continued family reunification services for another six months. At the request of I.M.'s counsel, the court also ordered DCFS to continue to investigate relatives as visitation monitors and as potential placements for I.M. Nothing took place at this hearing that could possibly give rise to an appeal by Randy B. or Marlene B. It is clear from their briefing that they believe that DCFS did not comply with the court's order to consider relative placement, but this does not demonstrate any error in the juvenile court's order instructing DCFS to do so. Indeed, it is quite clear that Randy B. and Marlene B. continue to want that order to be carried out. As neither Randy B. nor Marlene B. identifies any error by the juvenile court at the October 20, 2008 hearing, there is no basis for overturning its orders made on that date.

On December 22, 2008, the matter was on calendar for a progress report but was continued to permit new counsel for Chastity B. to familiarize herself with the matter. Also on that date, the juvenile court denied three section 388 petitions—two filed by Marlene B., one filed by Randy B.—without a hearing. We understand Marlene B. and Randy B. to be complaining that the court denied their section 388 petitions. While Marlene B. and Randy B. specifically contend in a heading in their reply brief that they contest the denial of at least Randy B.'s section 388 petition, they include no argument at all on this issue and have therefore failed to demonstrate any error made by the juvenile court.

Section 388 is a general provision permitting the court, "upon grounds of change of circumstance or new evidence . . . to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court." (§ 388, subd. (a).) The

statute, an "escape mechanism" that allows the dependency court to consider new information even after parental reunification efforts have been terminated (*In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1316), permits the modification of a prior order only when the petitioner establishes by a preponderance of the evidence that (1) changed circumstances or new evidence exists; and (2) the proposed change would promote the best interests of the child. (*In re Zachary G.* (1999) 77 Cal.App.4th 799, 806.) The petitioner must make a prima facie showing of changed circumstances and best interests in order to obtain a hearing; if the showing is inadequate to make a prima facie case, the trial court may deny the petition without a hearing. (*In re Anthony W.* (2001) 87 Cal.App.4th 246, 250; Cal. Rules of Court, rule 5.570(d).) We review the summary denial of a section 388 petition for an abuse of discretion (*In re Anthony W.*, at p. 250), and cannot say that the trial court abused its discretion here with respect to any of the section 388 petitions.

A. Randy B.'s Petition

Randy B.'s section 388 petition requested that I.M.'s placement be changed from the foster care placement to his home. He identified as a change of circumstances that he had been visiting consistently with I.M., that they "still have a very tight bond," and that he had been following court orders. Randy B. asserted that the change in placement would be in I.M.'s best interest because "I am able to provide [f]or my n[ie]ce. I don[']t have any [p]ersonal bills of my own. I am able to provide cloth[e]s, food, personal items she needs[;] most of all I am able to give her guidance and love and attention she needs." The juvenile court denied the request without a hearing because the facts did not support the requested relief, the request did not state new evidence or a change of circumstances, and the request did not show that it would be in the child's best interest to change the placement order.

The trial court did not abuse its discretion in denying the petition without a hearing. Significant concerns had been identified when Randy B. was first considered as

a potential placement for I.M., and Randy B. did not allege any change in circumstances or new evidence that would show that those bases for not placing I.M. with him had been overcome. The petition asserted no changes in Randy B.'s ability to care for I.M. He offered no evidence that he could care for I.M. without complete financial dependence on his mother, Marlene B. He provided no evidence that he had any more experience or any new skills that would permit him to care properly for a young child. Visitation had been ordered months earlier, and the fact of continued visitation did not demonstrate any change in circumstances. Moreover, the petition did not demonstrate how a change in placement would be in I.M.'s best interest. This petition offered no basis for revisiting the placement decision for I.M.

B. Marlene B.'s First Petition

Marlene B.'s first section 388 petition requested that I.M. be placed with her. Marlene B. identified as a change in circumstances that the DCFS social worker "called me on the phone and told me he is considering placing I[.M.] with me and he asked if I wanted custody. I said yes. [H]e told me & my son to live scan, we did that. [H]e requested reference letters." Marlene B. alleged that the change in placement would be in I.M.'s best interest because she was a suitable relative who has attended all hearings, has waited to be considered for placement, and because the social worker was considering her for placement. She also asserted that it would be good if I.M. could be with her family for Christmas. Marlene B. attached a list of 10 promises: to provide a safe home; to see that I.M. was cared for and loved; to send her to school when she was old enough to attend; to supervise I.M.; to cooperate with the goals of the service plan; to cooperate with visitation between I.M. and her mother; to make sure that the child kept medical appointments; to remain in contact with the courts; to explain to I.M. in a positive way why her mother could not presently care for her; and to pray everything works out for the best. She also attached what appeared to be a request for a Live Scan that showed that the scan had been performed, although the copy in our record does not show the name of

the person being scanned or any results. Finally, Marlene B. included four character reference letters. The juvenile court denied the petition without a hearing because the facts did not support the requested relief, the request did not state new evidence or a change of circumstances, and the request did not show that it would be in I.M.'s best interest to change the placement order.

Here, too, the trial court properly denied the petition without a hearing. Marlene B.'s unsuitability as a caretaker had been identified from the very beginning of the dependency proceedings. She had a criminal record and prior involvement with DCFS. She denied that her daughter was using drugs, misrepresented facts to DCFS, and behaved inappropriately with case workers. She interfered with visitation. Marlene B.'s presence in the home was so clearly a disqualifier for placement that she moved out of her own home to bolster her son's chances of having I.M. placed with him at the home. The juvenile court had ordered that she not be in the home when I.M. was there. The fact that the social worker had begun in December 2008 to explore Marlene B.'s suitability as a potential placement for I.M. indicates that over the months since I.M.'s initial detention, DCFS's view that placement with her was out of the question must have softened somewhat, but Marlene B.'s petition does not identify any change of circumstances that would merit a hearing on the section 388 petition. The petition did not demonstrate that I.M. could legally be placed with Marlene B. in light of her criminal record, or that she would be eligible for or had received an exemption under section 361.4, subdivision (d)(3)(A).[2] Marlene B. failed to establish a change in circumstances such that that a placement in her home would be possible, let alone in I.M.'s best interest. The juvenile court did not abuse its discretion in denying the section 388 petition without a hearing.

[2] Respondent asserts that no exemption would have been available but cites to neither law nor evidence in the record to support that conclusory assertion.

C. Marlene B.'s Second Petition

In Marlene B.'s other section 388 petition filed December 22, 2008, she again asked that I.M. be placed with her. She alleged the following change of circumstances: "I have consist[e]ntly visited the child when [the] social worker allows me. I have been complying with all court order[]s to the fullest. I have provided social worker with what he asked of me. I have been at every hearing regarding my granddaughter. Social worker is considering me as well. I live scanned on 12-11-08." She alleged that the change in placement would be in I.M.'s best interest "because [I.M.] shows a strong bond with me to this day. She has a hard time dealing with her emotions. We love each other. I am able to provide the child with Love, Guidance, attention, and I am able to change my work shift so I can be with the child more often. I am a suitable relative. I can give I[.M.] what she needs." The juvenile court denied this petition on the basis that it did not state new evidence or a change of circumstances, and the facts did not support what was requested. This section 388 petition, filed the same day, is basically cumulative of the prior petition. No new facts or change in circumstances were alleged that would merit a change in placement. The juvenile court did not abuse its discretion in denying this petition without a hearing.

V. Relative Placement Preference

Randy B. and Marlene B. claim that the juvenile court failed to follow the legislative preference set forth in section 361.3 for placement with relatives. "The relative placement preference, codified in section 361.3, provides that whenever a new placement of a dependent child must be made, preferential consideration must be given to suitable relatives who request placement. [Citation.] '"Preferential consideration" means that the relative seeking placement shall be the first placement to be considered and investigated.' [Citation.] Preferential consideration 'does not create an evidentiary presumption in favor of a relative, but merely places the relative at the head of the line

when the court is determining which placement is in the child's best interests.' [Citation.]" (*In re Antonio G.* (2007) 159 Cal.App.4th 369, 376.)

While section 361.3 may have placed appellants "at the head of the line" when placement decisions were made, it did not establish that placement with them would be appropriate. The juvenile court was always required to determine what placement was in the child's best interests. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 320 [even when the relative preference applies, it does not "overcome the juvenile court's duty to determine the best interest of the child"].) In fact, the first factor listed as a consideration for whether a placement with a relative is appropriate is the "best interest of the child, including special physical, educational, medical, or emotional needs." (§ 361.3, subd. (a)(1).) The juvenile court determined early in this dependency matter that placement with appellants was not in I.M.'s best interest, and the time for appealing that determination has long passed. (*In re Eli F.* (1989) 212 Cal.App.3d 228, 233 ["In a case brought under section 300, the juvenile court's dispositional order is a judgment"].).)

Randy B. complains that the relative placement preference was not honored at the six month status review, but I.M.'s placement was not changed at that hearing. As neither Randy B. nor Marlene B. presented a section 388 petition that made even a prima facie case that (1) changed circumstances or new evidence existed and that (2) placement with either of them would promote the best interests of I.M., regardless of the relative placement preference the section 388 petitions were properly denied.

VI. Presence in the Courtroom

Marlene B. complains in her opening brief that she was excluded from the disposition hearing, the six month review hearing, and three progress hearings, when in fact she was entitled to be in the courtroom under California Rules of Court, rule 5.530(b)(2)(A). Although this does not appear to be encompassed by any of the notices of appeal and the transcripts from some of these hearings specifically mention that Marlene B. was present in the courtroom for some of these hearings, we briefly address

the issue to illuminate the rule. California Rules of Court, Rule 5.530(b)(2) provides that all parents, de facto parents, Indian custodians, and guardians are entitled to be present during dependency proceedings. It also states that if no parent or guardian resides within the state, or if their places of residence are unknown, then any adult relatives residing within the county are entitled to be present in the court. (Cal. Rules of Court, rule 5.530(b)(2)(A).) Contrary to Marlene B.'s contention, California Rules of Court, rule 5.530(b)(2)(A) does not state that in all circumstances, adult relatives living in the county are entitled to be present at juvenile court proceedings. As it is clear from the record that Chastity M. lives in Marlene B.'s house in Los Angeles County, this is not a situation in which the dependent child has no parents living in California. California Rules of Court, rule 5.530(b)(2)(A) does not entitle Marlene B. to be present in the courtroom.

VII. Requested Order Pursuant to Section 827

Charging the juvenile court with disregarding section 827 and permitting Randy B. and Marlene B. unfettered access to I.M.'s juvenile court file in the absence of a proper petition for access to the records, Respondent requested by motion that we instruct the juvenile court to "reconsider its decision to ignore section 827 and therefore allow these relatives to have apparently unlimited access to juvenile court records."

Respondent subsequently informed this court that the supervising judge of the juvenile court had investigated the matter and concluded that the juvenile court did not release records to Randy B. and Marlene B. In this correspondence, Respondent no longer alleged that the juvenile court opened its files to Randy B. and Marlene B., instead noting that appellants "somehow" obtained confidential documents pertaining to the juvenile court proceeding. As Respondent no longer asserts that the juvenile court has disregarded its duties with respect to enforcement of section 827, we ascertain no need to act. We therefore deny the request for an order disallowing Randy B. and Marlene B. access to I.M.'s juvenile court file.

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

WOODS, Acting P. J.

JACKSON, J.